

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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|------------------------------|---|-------------------------------|
| LENNIE DARTEZ MATHIS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. CIV-18-1173-G |
| |) | |
| RAYMOND BYRD, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

This matter comes before the Court for review of the Report and Recommendation (Doc. No. 8) issued by United States Magistrate Judge Shon T. Erwin pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Petitioner, a state prisoner appearing pro se, brought this action under 42 U.S.C. § 1983. Judge Erwin granted Plaintiff’s Motion to Proceed *In Forma Pauperis* and ordered Plaintiff to pay an initial partial filing fee of \$16.99 on or before January 7, 2019. When Plaintiff failed to pay the required fee by the deadline given him, Judge Erwin recommended that Plaintiff’s action be dismissed without prejudice.

Plaintiff filed a timely objection to the Report and Recommendation on January 22, 2019. *See* Objection to Report and Recommendation (Doc. No. 10). In his objection, Plaintiff represents that he failed to pay the \$16.99 fee due to a “lack of understanding . . . as to how the payment was [supposed] to be paid”¹ *Id.* at 1. Plaintiff has also submitted a letter (Doc. No. 9) advising the Court of difficulties he has experienced in

¹ Plaintiff represents that he was under the mistaken belief that this Court would retrieve the necessary funds from his account. *Id.* at 1.

arranging transmission of his payment through prison officials. *See* Letter dated 1/16/19 (Doc. No. 9) at 1-2.

Having reviewed the Report and Recommendation de novo,² the Court concludes that Plaintiff's action is subject to dismissal for failure to timely pay the initial partial filing fee. The Court, however, construes Plaintiff's objection and letter as a request for additional time to submit his \$16.99 payment and grants that request. If Plaintiff encounters difficulties accessing his account funds in order to comply with this Order, he may present this Order to prison officials or seek further assistance from the Court.

It is therefore ORDERED that the Report and Recommendation (Doc. No. 8) is ADOPTED. It is further ORDERED that Plaintiff is granted an extension to March 14, 2019, to make his initial partial payment of \$16.99. If Plaintiff fails to make the required payment by that date, or show good cause for any such failure, this action may be dismissed without prejudice.

IT IS SO ORDERED this 21st day of February, 2019.


CHARLES B. GOODWIN
United States District Judge

² The Court conducts a de novo review on any issue to which Plaintiff timely objects. *See, e.g., United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).